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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,303	03/12/2004	Michael J. Akrep	76015-3	7828
42325	7590	02/28/2005	EXAMINER	
DOHERTY, WALLACE, PILLSBURY & MURPHY, P.C. ONE MONARCH PLACE, SUITE 1900 1414 MAIN STREET SPRINGFIELD, MA 01144-1900			WUJCIAK, ALFRED J	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/799,303

Applicant(s)

AKREP, MICHAEL J.

Examiner

Alfred Joseph Wujciak III

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-11 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/04, 8/04, 9/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the first Office Action for the serial number 10/799,303, LINEAR ADJUSTMENT DEVICE AND LINEAR ADJUSTMENT SYSTEM INCORPORATING THE DEVICE AND METHOD OF USE, filed on 3/12/04.

Information Disclosure Statement

The information disclosure statements (IDS) submitted on 6/7/04, 8/31/04 and 9/15/04 were filed after the mailing date of the filing date on 3/12/04. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 5,746,567 to Herbermann et al.

Herbermann et al. teaches a linear adjustment device/system comprising a positioning mechanism (figure 5) including a rod (58), a first pipe (adjacent to element 56 at the left side) slidably engaged with the rod and a second pipe (adjacent to element 56 at the right side) slidably engaged with the rod. The mechanism includes a load sleeve (56 at the left side), wherein the load sleeve is secured to the first pipe and an anchor sleeve (56 at the right side)

Art Unit: 3632

wherein the anchor sleeve is secured to the second pipe. The system includes a main structural element (54). The load sleeve and the anchor sleeve are disposed on the main structural member. The system includes a fastening means (64) for securing the anchor sleeve to the main structural member. The system further comprises a second linear adjustment device comprises a positioning mechanism (located on the other side element 54 in figure 5) comprising rod, first and second pipes, load sleeve and anchor sleeve.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herbermann et al.

Herbermann et al. teaches a linear adjustment device/system comprising a positioning mechanism (figure 5) including a rod (58), a first pipe (adjacent to element 56 at the left side) slidably engaged with the rod and a second pipe (adjacent to element 56 at the right side) slidably engaged with the rod. The mechanism includes a load sleeve (56 at the left side), wherein the load sleeve is secured to the first pipe and an anchor sleeve (56 at the right side) wherein the anchor sleeve is secured to the second pipe. The system includes a main structural element (54). The load sleeve and the anchor sleeve are disposed on the main structural member. The system includes a fastening means (64) for securing the anchor sleeve to the main

Art Unit: 3632

structural member. The system further comprises a second linear adjustment device comprises a positioning mechanism (located on the other side element 54 in figure 5) comprising rod, first and second pipes, load sleeve and anchor sleeve.

Herbermann et al. teaches the first pipe and second pipe are connected to the rod but fails to teach the first pipe and second pipe are connected to the rod by a first securing element and a second securing element, however in figure 1a in Herbermann et al.'s invention which is a different embodiment shows clamp having the securing element (31b) mounted on the rod. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used the securing element to the first and second pipes to prevent the rod from sliding in and out of the first and second pipes.

In regards to claim 11, Herbermann et al. teaches all element above but fails to teach the use of elements in method. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have specified steps for positioning the rod through the first and second pipes to provide convenience for adjusting the rod between the load sleeve and anchor sleeve.

Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herbermann et al. in view of US Patent # 5,251,993 to Sigourney.

Herbermann et al. teaches the first securing element and second securing element but fails to teach the first securing element comprising a first nut disposed adjacent to a first terminal end of the first pipe and a second nut disposed adjacent to a second terminal end of the first pipe and the second securing element comprises a first nut disposed adjacent to a first terminal end of

Art Unit: 3632

the second pipe and a second nut disposed adjacent to a second terminal end of the second pipe. Sigourney teaches the first securing element comprising a first nut (35) and a second nut (36) and the second securing element comprising a first nut (45) and a second nut (46). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Herbermann et al.'s first securing element and second securing element with the first and second nuts as taught by Sigourney to provide alternative method for securing rod on the first and second pipes.

Allowable Subject Matter

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach wherein the upper hole of the anchor sleeve is aligned with the upper hole of the main structural member and the lower hole of the anchor sleeve is aligned with the lower hole of the main structural member.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 4,828,076 to Fox

US Patent # 5,219,349 to Krag et al.

Art Unit: 3632

Fox and Krag et al. teach the rod and sleeves with nuts for adjusting the length sleeves on the rod.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (703) 306-5994. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703 308 2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III
Examiner
Art Unit 3632



2/8/05